

**RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #43-09**

**Netcong Borough, Morris County**

WHEREAS, on December 30, 2008, Netcong Borough, Morris County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on May 8, 2009, the Borough published notice of its petition in the *Daily Record*, which is a newspaper of general circulation within the County; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended June 22, 2009; and

WHEREAS, subsequent to the public comment period, on July 27, 2009, Eileen Swan, Executive Director, Highlands Water Protection and Planning Council, submitted a memorandum reviewing Netcong's plan for consistency with the Highlands Regional Master Plan (RMP), which is summarized in the September 29, 2009 Compliance Report (attached as Exhibit A and incorporated by reference herein); and

WHEREAS, during the plan review process, the Borough submitted additional information that clarifies the number, type, and tenure of affordable units anticipated; and

WHEREAS, Netcong withdrew its request for bonuses until such time that the Borough submits evidence of a firm commitment for the construction of the affordable units, pursuant to N.J.A.C. 5:97-3.19; and

WHEREAS, the Borough also submitted a letter dated September 25, 2009, revising the number of credits requested for rehabilitation units from eight to seven units and electing to apply three new construction surplus units to its remaining three-unit rehabilitation share; and

WHEREAS, Netcong Borough's fair share plan, as supplemented by the additional information noted, addresses a total 1987-2018 affordable housing obligation of 36 units, consisting of a ten-unit

rehabilitation share, a zero-unit prior round obligation and a 26-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, the Borough is addressing its ten-unit rehabilitation share with seven rehabilitation credits resulting from participation in the Morris County Community Development Block Grant Housing Rehabilitation Program and three surplus new construction family for-sale units resulting from the Station Area Redevelopment; and

WHEREAS, Netcong proposes to address its 26-unit projected growth share obligation with two proposed redevelopment areas that are expected to yield 49 affordable units (three of which are addressing three units of the Borough's rehabilitation share) and a two-unit accessory apartment program, resulting in a 22-unit surplus; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Netcong has provided implementation schedules that set forth detailed timetables that demonstrate a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7 and N.J.A.C. 5:97-6.10 for the proposed Station Area Redevelopment Area and the proposed Stoll/Allen Street Redevelopment Area; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on September 29, 2009, COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Netcong Borough's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments during this timeframe.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Netcong comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Netcong Borough; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:96-6.3(e), Netcong Borough shall adopt all implementing Fair Share within 45 days of receiving final substantive certification; and

BE IT FURTHER RESOLVED that within 45 days of the grant of substantive certification, the Borough shall adopt the draft resolution of intent to bond and shall submit to COAH a formalized agreement with the Housing Partnership or other qualified entity to serve as administrative agent for the accessory apartment program; and

BE IT FURTHER RESOLVED that, in addition, the Borough shall adopt by resolution the approved affirmative marketing plan within 45 days of the grant of substantive certification; and

BE IT FURTHER RESOLVED that if the Borough fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Netcong shall submit certified copies of the adopted ordinances to COAH within seven days of adoption; and

BE IT FURTHER RESOLVED that Netcong shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Borough's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Netcong's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Netcong and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97- 3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, then the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Netcong shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that, pursuant to N.J.A.C. 5:96-6.3(b), Netcong's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Netcong Borough to provide for the realistic opportunity of its fair share of low- and moderate-income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was  
duly adopted by the Council on Affordable  
Housing at its public meeting on October 14, 2009

A handwritten signature in cursive script, reading "Reneé Reiss". The signature is written in dark ink on a white background.

Reneé Reiss, Secretary



***Council on Affordable Housing  
Compliance Report  
September 29, 2009***



**Municipality:** Netcong Borough  
**County:** Morris

**COAH Region:** 2

**Planning Area:** 2

**Special Resource Area:** Highlands Planning Area

**Housing Element and Fair Share Plan Adopted:** December 22, 2008

**Petition for 3<sup>rd</sup> Round Substantive Certification:** December 30, 2008

**Completeness Determination:** May 5, 2009

**Date of Publication:** May 8, 2009

**Objections Received:** No

**Petition Includes:**

**VLA:** No

**GPA:** No

**Waiver:** No

**Date of Site Visit:** September 18, 2009

**History of Approvals:**

	<b>COAH</b>	<b>JOC</b>	<b>N/A</b>
<b>First Round:</b>			X
<b>Second Round:</b>			X
<b>Extended Certification:</b>			X

**Plan Preparer:** Paul Phillips, AICP, PP

**Municipal Housing Liaison:** Ralph Blakeslee, Borough Administrator

**Recommendation:** Grant Substantive Certification

**SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	10
Prior Round Obligation	0
Projected Growth Share Obligation	26

**ACTUAL GROWTH and GROWTH SHARE through September, 2008<sup>1</sup>**

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
6	1.2 units	8	.5 units	2 units

**COMPLIANCE PLAN SUMMARY**

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
<b>Rehabilitation: 10 units</b>				
<b>Credits</b>	Post-April 1, 2000	7		7
<b>New Construction</b>	Surplus	3		3
<b>Rehabilitation Subtotal</b>				<b>10</b>
<b>NEW CONSTRUCTION:</b>				
<b>Prior Round: 0 units</b>				
<b>Prior Round Subtotal</b>				<b>0</b>
<b>Growth Share: 26 units</b>				
<b>Proposed Mechanism(s)</b>	Redevelopment		46	46
	Accessory Apartment Program		2	2
<b>Growth Share Bonus(es)</b>	*	-		-
<b>Growth Share Subtotal</b>				<b>48</b>
<b>Surplus</b>				<b>22</b>

\*These affordable units may be eligible for redevelopment bonuses pursuant to N.J.A.C. 5:97-3.19 at such time that the Borough submits evidence of a firm commitment for the construction of the affordable units.

<sup>1</sup> This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

## **I. HOUSING ELEMENT**

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Netcong Borough's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

### **A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Netcong Borough has a rehabilitation share of 10 units.

### **B. Prior Round Obligation**

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Netcong Borough has a prior round obligation of 0.

### **C. Projected Growth Share**

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Netcong Borough has a residential projection of 72 units and a non-residential projection of 178 jobs. Therefore, the Borough's total projected growth share

for the period 1999-2018 is 26 affordable units consisting of a 14.4-unit projected residential growth share and an 11.1-unit projected non-residential growth share.<sup>2</sup>

#### **SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	10
Prior Round Obligation	0
Projected Growth Share Obligation	26

## **II. FAIR SHARE PLAN**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Netcong Borough petitioned COAH for substantive certification on December 30, 2008, and submitted a Fair Share Plan addressing a 26-unit growth share obligation with two proposed redevelopment areas and a two-unit accessory apartment program. The Plan indicated that the number of affordable units resulting from the redevelopment was "to be determined based on a 20% set aside for each redevelopment area and potential redevelopment/smart growth bonus credits..." The Plan did not specify, however, the expected number of affordable units for each area, nor did it indicate whether they would be family or age-restricted, rental or for-sale. During the plan review process, the Borough submitted additional plan details in the form of revised mechanism checklists and a revised Growth Share Plan that clarifies the number, type, and tenure of affordable units anticipated. (Attached as Appendix A) In addition, Netcong withdrew its request for bonuses until such time that the Borough submits evidence of a firm commitment for

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<sup>2</sup> Pursuant to N.J.A.C. 5:97-2.2(d), Netcong's residential projection of 72 is divided by 5 to yield 14.4 units and the non-residential projection of 178 jobs is divided by 16 to yield 11.1 units. The Borough's total projected growth share is therefore 26 units (14.4 + 11.1)).



the construction of the affordable units, pursuant to N.J.A.C. 5:97-3.19. Netcong Borough also submitted a letter dated September 25, 2009 (Attached as Appendix B), revising the number of credits requested for rehabilitation units from eight to seven units and, as described below, electing to apply three new construction surplus units to its remaining three-unit rehabilitation share. COAH has based this report on the Fair Share Plan as supplemented by the additional information noted.

Netcong's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

**A. Plan to Address Rehabilitation Share**

**Rehabilitation Share Credits**

Netcong Borough is requesting credit for seven units rehabilitated subsequent to April 1, 2000, through the Morris County Housing Rehabilitation Program. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Netcong will continue its participation in the Morris County Housing Rehabilitation Program. As evidence of its participation, the Borough submitted a certified "Resolution Acknowledging the Borough's Participation in the Morris County Housing Rehabilitation Program," dated September 11, 2009. However, the County program does not provide for the rehabilitation of rental units, as required under N.J.A.C. 5:97-6.2(b)6. Because Netcong does not have adequate development fee funds to fund a municipal rehabilitation program, the Borough has chosen to address the remaining three-unit rehabilitation share with three of the surplus new construction family for-sale units resulting from the Station Area Redevelopment, pursuant to N.J.A.C. 5:97-6.2(b)7.

**Rehabilitation Credits**

<b>Rehabilitation Program</b>	<b># Credits</b>
Morris County Housing Rehabilitation Program	7
New Construction Surplus	3
<b>TOTAL</b>	<b>10</b>

**B. Plan to Address Prior Round Obligation**

Netcong Borough has no prior round obligation.

**C. Plan to Address Projected Growth Share**

**Growth Share Obligation Credits**

Netcong's Housing Element and Fair Share Plan does not include any growth share obligation credits.

**Proposed Affordable Housing Mechanisms**

Netcong Borough proposes to address its 26-unit growth share obligation through the following mechanisms:

**Station Area Redevelopment**

Netcong Borough will utilize the proposed Station Area Redevelopment Area, adjacent to downtown Netcong and the New Jersey Transit train station, to address a portion of its projected growth share obligation. The Borough's Fair Share Plan envisions a mixed use redevelopment that would yield 108 market-rate residential units and 28 affordable units (17 for-sale and 11 rental, including four very low-income rental units), as well as 10,500 sq. ft. of office and/or retail development. Residential development would include a mix of multi-family, townhouses, and semi-attached housing. As noted above, three of the for-sale affordable units will be applied to the Borough's remaining rehabilitation share.

The Redevelopment Plan adopted on May 14, 2005, bases its set-aside requirements on the one-for-eight ratio originally prescribed by COAH's Growth Share methodology; however, the Borough is negotiating with the designated redeveloper to increase the set-aside to 20% to comply with COAH's adopted third round rules and the provisions of N.J.S.A. 52:27D-329.9, which require that developments consisting of newly-constructed residential units located or to be located within the Highlands reserve at least 20% of the residential units for low or moderate income households. It is anticipated that the Redevelopment Plan will be amended and/or a redeveloper's agreement executed so as to reflect the 20% set-aside requirement by the summer of

2010. The affordable yields projected for Netcong's Fair Share Plan are based on the higher set-aside.

The Station Area Redevelopment Area is within a Transit Village designated by the New Jersey Department of Transportation in 2005. According to the Redevelopment Plan, the Project Area occupies 12.8 acres bounded by Route 46, Flanders Road, Bank Street and Main Street.<sup>3</sup> Much of the designated area consists of vacant and underutilized parcels, including a large industrial building with outdoor storage and related accessory buildings, several office buildings, parking areas, and a single-story commercial building. About seven acres of the Project Area are owned by New Jersey Transit, including the train station, parking area, and right-of-way.

An existing intermittent stream, which is classified as a wetlands constraint, bisects a portion of the site but will be incorporated by a proposed open space greenway. The Redevelopment Plan indicates that Netcong has sufficient sewer capacity and water supply for the proposed Project Area redevelopment.

Netcong will follow an implementation schedule for the redevelopment of the Station Area. Pursuant to N.J.A.C. 5:97-3.2(a)4, the Borough has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. Rosewood-Netcong, LLC, is under contract with the Borough to redevelop the property. It is anticipated that construction of the units will begin in mid-2013, with completion by late 2013 or early 2014.

### **Stoll/Allen Street Redevelopment**

Netcong will address a portion of its projected growth share obligation in the proposed Stoll/Allen Street Redevelopment Area.<sup>4</sup> The Borough anticipates a total of 103 stacked multi-family condominium units, of which 20%, or 21 units, will be set aside as affordable family units, including three very low-income units.

The Borough adopted the Stoll/Allen Street Redevelopment Plan on July 29, 2008, and subsequently amended it on August 13, 2009. The amended version of the

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<sup>3</sup> Block 19, Lots 20, 21.01, 22, 28, 28.01, 29, 30, 34.02, 35-39

<sup>4</sup> Block 8, Lots 15-17, 23.01, 24, 24.02, 24.03, 27-30, 32

Plan establishes a 20% set-aside of affordable units and requires that the units be built on-site. Located less than  $\frac{3}{4}$  of a mile from the Borough's train station, the designated redevelopment area is generally bounded by Stoll Street, Allen Street and an existing railroad right-of-way, and consists of approximately 10.2 acres. The site contains a mix of residential, commercial, industrial, and vacant parcels, including several obsolete structures, and is described as "underutilized and, to a large extent, in transition." The Redevelopment Plan indicates that the project area is served by adequate sewer capacity and water supply. Existing wetlands within the site are to be protected as open space in the form of a passive recreation area.

The proposed redevelopment may require the displacement and relocation of residents and businesses within the project area, in which case a Workable Relocation Assistance Plan (WRAP) will be prepared and submitted to the New Jersey Department of Community Affairs, in accordance with applicable New Jersey statutes and regulations.

Netcong will follow an implementation schedule for the redevelopment of the Stoll/Allen Street area. Pursuant to N.J.A.C. 5:97-3.2(a)4, the Borough has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The RFP process is underway and is scheduled to be completed by mid-2010, with construction anticipated by mid to late-2013.

### **Accessory Apartment Program**

Netcong will rely on an accessory apartment program to address two units of its projected growth share obligation. Consistent with Netcong's efforts "to promote downtown living and to enhance the downtown core," the Borough has drafted an accessory apartment ordinance permitting such units within the B-C Borough Center Zone. This zone is characterized by a mix of multi-family and commercial/residential structures with the potential for accessory units on the upper floors. Consistent with N.J.A.C. 5:97-6.8(b)2, the proposed program would provide a minimum subsidy of \$25,000 for the creation of low-income units and a minimum \$20,000 subsidy for the creation of moderate-income units. The Borough intends to use anticipated development fees to fund the program but does expect a funding shortfall. However, the Borough has provided a draft resolution of intent to appropriate funds or bond to address any shortfall.

This resolution must be adopted by the Borough within 45 days of substantive certification.

Netcong has submitted an Accessory Apartment Operating Manual as well as an Affirmative Marketing Plan. The Borough has also provided a letter stating its intent to contract with the Housing Partnership to serve as the Administrative Agent for its affordable housing program. A formalized agreement with the Housing Partnership or other qualified entity is required within 45 days of substantive certification as the accessory apartment program must be marketed immediately thereafter.

#### Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Station Area Redevelopment Area	Family Sale	14*	**	-	14
Station Area Redevelopment Area	Family Rental	11	**	-	11
Stoll/Allen St. Redevelopment Area	Family Sale	21	**	-	21
Accessory Apartment Program	Family Rental	2	-	-	2
<b>TOTALS</b>		<b>48</b>		<b>-</b>	<b>48</b>

\*Although 17 family for-sale units are proposed in the Station Area Redevelopment Area, three of the units are being used to address a portion of the Borough's rehabilitation share.

\*\*These affordable units may be eligible for redevelopment bonuses pursuant to N.J.A.C. 5:97-3.19 at such time that the Borough submits evidence of a firm commitment for the construction of the affordable units.

### **Growth Share Parameters**

Netcong Borough has satisfied the applicable Growth Share parameters as follows:

#### **Growth Share Rental Obligation:<sup>5</sup> 7 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Station Area Redevelopment Area	Family Rental	11
Accessory Apartment Program	Family Rental	2
<b>TOTAL</b>		<b>13</b>

#### **Growth Share Family Rental Requirement<sup>6</sup> : 4 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Station Area Redevelopment Area	Family Rental	11
Accessory Apartment Program	Family Rental	2
<b>TOTAL</b>		<b>15</b>

#### **Growth Share Minimum Family Requirement<sup>7</sup> : 13 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Station Area Redevelopment Area	Family For Sale/Rental	25
Stoll/Allen St. Redevelopment Area	Family For Sale	21
Accessory Apartment Program	Family Rental	2
<b>TOTAL</b>		<b>48</b>

<sup>5</sup> Projected Growth Share Rental Obligation:  $.25(\text{Projected Growth Share})$  or  $.25(26) = 6.5$  or 7 units  
N.J.A.C. 5:97-3.10(b)3

<sup>6</sup> Projected Growth Share Family Rental Requirement:  $.5(\text{Projected Growth Share Rental Requirement})$  or  $.5(7) = 3.5$  or 4 units N.J.A.C. 5:97-3.4(b)

<sup>7</sup> Projected Growth Share Family Requirement:  $.5(\text{Units Addressing the Growth Share Obligation})$  or  $.5(26) = 13$  units N.J.A.C. 5:97-3.9

**Very Low Income Minimum Requirement<sup>8</sup> : 3 Units**

Development/Project Name	Type of Affordable Unit	# Units
Station Area Redevelopment Area	Family Rental	4
Stoll/Allen St. Redevelopment Area	Family For Sale	3
<b>TOTAL</b>		<b>7</b>

**Age-Restricted Maximum<sup>9</sup> : 6 Units**

Development/Project Name	Type of Affordable Unit	# Units
N/A	-	0
<b>TOTAL</b>		<b>0</b>

**Bonus Maximum<sup>10</sup> : 6 Bonuses**

Development/Project Name	Type of Bonus	# Bonuses
N/A*	-	0
<b>TOTAL</b>		<b>0</b>

\*Netcong may be eligible for bonuses pursuant to N.J.A.C. 5:97-3.19 at such time that the Borough submits evidence of a firm commitment for the construction of the affordable units in the proposed redevelopment areas.

**Actual Growth Share Obligation**

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will

<sup>8</sup> Growth Share Very Low Income Requirement:  $.13(\text{Projected Growth Share})$  or  $.13(26) = 3.38$  or 3 units pursuant to P.L.2008, c.46

<sup>9</sup> Projected Growth Share Age Restricted Maximum:  $.25(\text{Projected Growth Share})$  or  $.25(26) = 6.5$  or 6 units N.J.A.C. 5:97-3.10(c)2

<sup>10</sup> Projected Bonus Maximum:  $.25(\text{Projected Growth Share})$  or  $.25(26) = 6.5$  or 6 units N.J.A.C. 5:97-3.20(b)

compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Netcong Borough issued certificates of occupancy for 6 housing units and for the non-residential square footage equivalent of 8 jobs, yielding an actual growth share obligation through September 30, 2008, of 2 affordable units.<sup>11</sup>

**D. Summary of Plan to Address Fair Share Obligation**

**REHABILITATION SHARE SUMMARY**  
**Rehabilitation Share: 10 Units**

<b>Program Name</b>	<b># Units</b>
Morris County Housing Rehabilitation Program (credits)	7
New Construction Surplus	3
<b>TOTAL</b>	<b>10</b>

**PRIOR ROUND SUMMARY**  
**Prior Round Obligation: 0 Units**

**GROWTH SHARE SUMMARY**  
**Projected Growth Share Obligation: 26 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	Station Area Redevelopment Area	25*	**	-	25

<sup>11</sup> The number of residential COs (6) is initially divided by 5 to yield 1.2 units and the number of jobs (8) is initially divided by 16 to yield 0.5 units. Netcong's total actual growth share is therefore 2 units (1.2 + 0.5 = 1.7). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.



	Stoll/Allen St. Redevelopment Area	21	**	-	21
	Accessory Apartment Program	2	-	-	2
<b>Subtotal</b>		<b>48</b>		<b>0</b>	
<b>TOTAL</b>					<b>48</b>
<b>Surplus</b>					<b>22</b>

\*Although 28 affordable units are proposed in the Station Area Redevelopment Area, three of the units are being used to address a portion of the Borough's rehabilitation share.

\*\*Netcong may be eligible for bonuses pursuant to N.J.A.C. 5:97-3.19 at such time that the Borough submits evidence of a firm commitment for the construction of the affordable units in the proposed redevelopment areas.

### III. FAIR SHARE DOCUMENT REVIEW

#### A. Development Fee Ordinance

Netcong Borough submitted a draft development fee ordinance for COAH's review and approval with its third round petition. The development fee ordinance will be reviewed by COAH in a separate report.

#### B. Third Round Spending Plan

A third round spending plan was submitted by Netcong with the Borough's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

#### C. Affordable Housing Ordinance/Affordable Housing Administration

Netcong Borough has submitted a draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance also complies with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon

adoption.

An ordinance establishing the position of a municipal housing liaison was adopted by the Borough on April 9, 2009. A resolution appointing a municipal housing liaison was adopted on May 7, 2009.

Netcong Borough is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Borough and must identify an experienced administrative entity for that purpose by contract, agreement or letter. Netcong has submitted a letter dated September 10, 2009, to Susan Zellman, Executive Director of the Housing Partnership, stating the Borough's intent to contract with the Housing Partnership to act as the Administrative Agent for its affordable housing program. The Borough must enter into a formalized agreement designating The Housing Partnership or other qualified entity to serve as administrative agent for Netcong's accessory apartment program within 45 days of substantive certification.

#### **D. Affirmative Marketing Plan**

Netcong has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Township within 45 days of COAH's grant of substantive certification and submitted to COAH.

#### **IV. MONITORING**

Netcong Borough must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for

credit, COAH will notify Netcong in writing and the Borough may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Netcong's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Netcong and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, Netcong is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

## **V. SUMMARY OF COMMENTS**

### **Highlands Water Protection and Planning Council**

On July 27, 2009, COAH received a memorandum from Eileen Swan, Executive Director, Highlands Water Protection and Planning Council, commenting on Netcong Borough's proposed Fair Share Plan. Specifically, the Highlands Council reviewed the Station Area Redevelopment Area, the Stoll/Allen Street Redevelopment Area, and the accessory apartment program for consistency with the Highlands Regional Master Plan (RMP).

The memorandum describes the characteristics of the proposed affordable program and outlines the relevant goals, policies, and objectives in the RMP. With regard to the Station Area Redevelopment Area, the review concludes that "(t)he location of the site in an Existing Community Zone and proposed redevelopment of an area in close proximity to transit opportunities and existing infrastructure is in keeping with the goals, policies and objections of the RMP." Similarly, the review notes that the

Stoll/Allen Street Redevelopment Area is in an Existing Community Zone and consistent with the goals, policies and objectives of the RMP. However, in both cases, it is recommended that “(c)are should be taken during the design of any final development plan to limit or remove any potential impacts to the Highlands Resources,” such as the Highlands Open Water Buffers and Riparian Areas within the Stoll/Allen St. Redevelopment area. The letter notes that the accessory apartment program is not site specific and therefore will require consistency review upon identification but concludes that, “given the limited nature and flexibility” of the program, “it is likely that any RMP consistency issues can be addressed at the time of site identification.”

## **VI. RECOMMENDATION**

COAH staff recommends that Netcong Borough be granted third round substantive certification. The Borough must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Also within 45 days of substantive certification, the Borough must adopt the draft resolution of intent to bond and submit to COAH a formalized agreement with the Housing Partnership or other qualified entity to serve as administrative agent for the accessory apartment program.

## **APPENDIX A**

***Revised Tables from the Borough of Netcong Third Round Housing Element and Fair Share Plan (December 22, 2008) indicating the anticipated number of affordable units to be constructed in Netcong***

**Table 18. Borough of Netcong - Third Round Growth Share Plan**

<u>Development</u>	<u>Affordable Units</u>
Accessory Apartment Program	2 rental units
Station Area Redevelopment Area (108 market rate/28 affordable)	28 units (17 for-sale/11 rental)
Stoll Street Redevelopment Area (82 market rate/21 affordable)	21 for-sale units
<b>Total</b>	<b>51 affordable units</b>
<u>*Third Round Rental Obligation</u>	<u>Units</u>
<b>Total (25% of obligation)</b>	<b>13 (0.25 x 50)</b>
<u>*Third Round Very Low Income Obligation</u>	<u>Rental Units</u>
<b>Total (13% of obligation)</b>	<b>7 (0.13 x 50)</b>

\*We have calculated the required rental and low-income obligation assuming a 50-unit COAH growth share generated from 250 units of actual growth (development from the Borough's two redevelopment areas and accessory unit program).

**Table 20. Projected Borough Affordable Housing Implementation Schedule**

[illegible]

## **APPENDIX B**

September 25, 2009

Lucy Vandenberg, Executive Director  
New Jersey Council on Affordable Housing  
101 South Broad Street  
Trenton, NJ 08625-0813

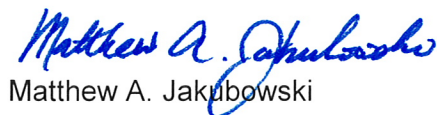
**RE: Rehabilitation Share Obligation –  
Borough of Netcong, Morris County**

Dear Lucy,

The Borough of Netcong ("the Borough"), through this office, received a report from the Morris County Division of Community Development dated September 22, 2009 concerning potential eligible rehabilitation share credits that received low interest loans through the Morris County Housing Rehabilitation Program. Upon review of the information provided within the document, seven (7) units are eligible for rehabilitation share credit under COAH's rules. One (1) potential rehabilitation share credit is currently being researched by the Borough to determine if the unit was in fact "brought up to code" as required by COAH. In the interest of expediting the Borough's petition for substantive certification, the Borough proposes to utilize three (3) surplus for-sale affordable family new construction units proposed within the Borough's Station Area Redevelopment Area for fulfillment of the Borough's remaining rehabilitation share. As you are aware, COAH has determined a 26-unit Third Round affordable obligation for the Borough of Netcong. However, the Borough's Third Round Fair Share Plan has provided a realistic opportunity for the construction of a total of 49 affordable units in its two redevelopment areas. Thus, the Borough is able to meet its remaining rehabilitation share through these surplus units.

The Borough reserves the right to address its rehabilitation share through future units rehabilitated by the Borough or the Morris County Housing Rehabilitation Program. In the event this occurs, the Borough will utilize these credits for its remaining rehabilitation share, and utilize eligible credits from the Station Area Redevelopment Area to cover actual growth share.

Sincerely,

  
Matthew A. Jakubowski

c: Mayor Joseph A. Nametko  
Ralph Blakeslee, Borough Administrator  
Anthony A. Bucco, Esq.  
Robert Oostdyk, Esq.

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